

REMARKS

Status of Claims:

Claims 1-18 are present for examination.

Acknowledgment of Previously Filed IDS

The examiner is requested to acknowledge receipt of the previously filed IDS mailed on January 3, 2002 and to return to applicant an initialed copy of the SB/08 form to applicant.

Claim Objections:

The examiner has noted that claims 17 and 18 contain the same limitations. By way of the instant amendment, claim 18 has been amended to correct the inadvertent error.

Rejections under Sec. 112

The claims stand objected to for the reasons stated in paragraph 5 of the outstanding office action. Applicant has amended the claims to place them more in compliance with US practice and to correct each of the matters specifically pointed out by the examiner. In this connection, it is noted that the objected to phrase "the time of no sharing" does not appear in claim 9. Moreover, applicant could not find this phrase in any of the other claims.

Prior Art Rejections:

Claims 1-18 stand rejected under 35 U.S.C. § 103 as obvious over Ebisawa in view of Downs.

The examiner's rejections are respectfully traversed.

Ebisawa is directed toward a system in which a CD ROM 40, previously purchased by a user is inserted into a personal computer 68. The CD-ROM 40 may contain a video game and typically contains "original old data." The ID information from the CD-ROM 40 is read and send to a control computer 11 which in turn reads a CM server HDD 10 to obtain updated CM data. CM data is defined as the "commercial advertisements and scenes of games, such as cars or flags, that can be updated" (see [0073]). Alternatively, the game software itself can be downloaded from program server controlling computer 66.

Prior to permitting operation of the game software, either from the CD-ROM or direct download, the system operates to update the CM data so that the latest commercial advertisements will be displayed on the game.

In contrast, applicants invention permits a portion of the game software (say first data block in applicant's Fig. 4) to be downloaded at no charge, and attributes of the software

examined (and in certain embodiments partial versions of the game to be played) so that the user may decide whether or not to purchase the software. For example, applicant's claim 1 recites:

1. A data distribution system comprising:

partial data preliminary distribution means for distributing partial data, comprising a part of distribution data, together with attribute data including the price of the distribution data, to a storage region provided in each user side;

partial data reproduction release means for, when the indicates a decision to purchase the partial data distributed by the partial data preliminary distribution means or a remaining undistributed part of the distribution data, rendering reproducible the partial data, except for the attribute data, from a time of the decision at the earliest; and

remaining distribution data distribution means for, upon receipt of a request from the user side for the distribution of the undistributed remaining part of the data corresponding to the partial data, distributing the remaining distribution data to the user who has requested the distribution of the remaining data.

When the user has decided to purchase the partial data (or the remaining undistributed part of the distribution data) then the already distributed partial data may be reproduced or used without any further action by the service provider (element 101G in applicant's Fig. 3). This recited limitation (the second underlined paragraph above) is in sharp contrast to the teaching of Ebisawa which teaches that even if the purchaser already has purchased the CD-ROM or already downloaded (and by doing so presumably already purchased) the game software, no portion of the game itself will be usable until the start program enable signal (PSE signal) is generated by the control computer 11 and sent to the modem 67 of the game dedicated machine 52, see [0132]. This control aspect imposed by Ebisawa insures that the game can not be played unless the latest commercial advertisements are in place. Ebisawa is simply concerned with different problems than those of applicant, and is not surprising that the teachings of Ebisawa are quite different from the claimed recitations of applicant's invention.

Similar limitations to those discussed above are present in ALL of applicant's independent claims. The deficiencies of Ebisawa are not cured by the teachings of Downs which the examiner has cited in connection with other aspects of the claims (attribute data including price and payment judgment). It is thus submitted that the PTO has not made out a *prima facie* case of obviousness under the provisions of 35 U.S.C. § 103, and thus applicants claims are patentable over the prior art.

Conclusions:

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 3-1-85

By David A. Blumenthal

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5407
Facsimile: (202) 672-5399

David A. Blumenthal
Attorney for Applicant
Registration No. 26,257